

CONTRACT COMPLIANCE (FAQs)

What is a Contract Compliance review?

Contract Compliance reviews are performed to monitor the utilization of minorities and women on Pennsylvania Department of Transportation (PennDOT) highway construction projects. These are comprehensive reviews conducted to determine a contractor's compliance through Executive Order 11246, Equal Employment Opportunity, Nondiscrimination Government Employment laws.

The Department monitors DBE/SBE participation on projects; as well as On the Job Training requirements, when applicable. The review process consists of the following components: planning, preliminary analysis, on-site verification, compliance determination; and where necessary, corrective action.

Who is selected for Contract Compliance reviews?

- Contractors performing work on multiple, or large volume contracts
- Contracts located in areas with high minorities and women labor forces
- Contractors who have had compliance issues in the past
- Projects with the greatest potential for employment and contracting opportunities
- Projects with Training Special Provisions
- Contractors who fail to cooperate with the request for compliance documents

How do I make a Good-Faith Effort (GFE) to stay in compliance?

A contractor is considered to have met its equal employment opportunity program obligations, if adequate, documentation of a good-faith effort (GFE) has been made. If there is evidence of non-compliance, the contractor will submit a Corrective Action Plan. The following criteria will be considered in the good-faith effort review process:

- Dissemination of the contractor's EEO policy
- Authority and responsibility of EEO Officer
- Periodic EEO meetings
- Notices/poster on the bulletin board
- Advertising as "An Equal Employment Opportunity Employer"
- Recruitment (advertisements likely to recruit minorities and women)
- Continuous education of firm's managers & supervisors on affirmative action-obligations
- Encourage present employees to refer women and minorities
- Evaluate wages to determine if discrimination exists
- Investigation of all complaints
- Assist in locating, qualifying and increasing the skills of minorities and women
- Uses training programs and advises employees and applicants of opportunities
- Minorities and women exist in contractor's training program
- Ensure non-segregated facilities

- Minorities and women are employed in all occupations, crafts and job classifications on an equal basis
- Procedures establishing the monitoring of subcontractors' compliance with nondiscrimination, EO and EEO procedures
- Adequate records and reports
- Minorities and women reach work hours based on their representation
- Pursuant to 23 CFR 2320, Subpart A, Appendix A). The contractors shall notify the union(s) of their commitment to EEO letting them know of the requirement to use their best efforts to incorporate an EEO clause into each union agreement

What is Workforce Analysis?

A contractor's workforce analyzes; determines if there is a reasonable representation and utilization (work hours) of minorities and women in each craft, classification or occupation, given their availability in the relevant labor market. The contractor will be required to demonstrate a good faith effort (GFE) if the representation or utilization of minorities and women is less than their availability in the contractor's workforce.

Form letters are not considered as a productive activity. In the absence of reasonable representation in any craft, the contractor will be required to provide proof of having requested referrals of minorities and women (i.e., records of telephone requests, including dates and times, person talked with, specific crafts for which minorities and women were requested).

The fact that a union may have a collective bargaining agreement, and fails to refer minorities and women to the contractor, shall not be a useable excuse for not providing the proper workforce. The contractor shall utilize data obtained from Civil Labor Force, or, other similar data sources that show the availability of minorities and women in the area in which the federal-aid project is located. PennDOT or FHWA do not enforce timetables on projects, OFCCP is responsible for ensuring this.

What is the Davis Bacon Act (DBA)?

The Davis-Bacon Act (DBA) was enacted by Congress on March 3, 1931, to assure local workers a fair wage and to provide local contractors a fair opportunity to compete for local federal government contracts. In general, the DBA, as amended, requires that each contract over \$2,000 to which the United States or the District of Columbia is a party for the construction, alteration, and/or repair (including painting or decorating) of public buildings or public works shall contain a clause setting forth the minimum wages to be paid to various classifications of laborers and mechanics employed under the contract. (The Davis Bacon Act is incorporated under 23 U.S.C. 113 as a Davis-Bacon related act statute and is applicable to construction of Federal-aid highways funded with Federal-aid funding. See the discussion on Applicability to Federal-aid Highway projects, questions 7 and 8.)

Contractors and subcontractors are required to pay their laborers and mechanics employed directly upon the “site of the work” no less than the locally prevailing wage and fringe benefit rates for corresponding work on similar projects in the area “regardless of any contractual relationship which may be alleged to exist.” The Department of Labor determines and sets the prevailing wage rates.

What is Fair Market Prevailing Wage?

Fair Market Prevailing wage is used in On-the-Job Training to help contractors to conduct Fair Market prevailing wage rates for “Project Office-Related” or “Specialty” Training Program classifications that are not included in the Davis Bacon and/or L&I Prevailing Wage Rate documentation. Contractors should be using a federally supported prevailing wage rate determination source, similar to using the Davis Bacon as the source for determining a prevailing wage rate on federally funded projects; and using the L&I prevailing wage rates for 100% State funded projects.

Job Titles not included in Davis Bacon include but are not limited to the following:

1. Field Engineer (#80.02)
2. Traffic Control Assistant (#120.05)
3. Site Safety Intern (#120.06)
4. Field Office Timekeeper (#120.09)
5. Construction Office Administrator (#120.10)
6. Construction Office Manager (#120.08)
7. Grade Foreman (#100.01)

Steps to conduct a Fair Market Prevailing Wage Rate determination search:

1. Click on the following link to access O*NET online to determine the O*NET /SOC Code for the job classification in question; which is required to complete the Fair Market Prevailing Wage Rate search.
 - a. O*NET online provides detailed job descriptions; educational requirements; the skills needed to be able to perform the duties of the job; comparison salaries; etc.
 - i. <http://www.onetonline.org/>
 - ii. Then go to Keyword or O*Net-SOC Code: 1. Enter the job title; (I.E. Field Engineer)
 - a. This will take you to a sample listing of reported job titles;
 - i. Select the Civil Engineering Technicians – 173022 – which will equate to a: Transportation Engineering Technician
2. Now you will have to access the following link to get to the Foreign Labor Certification Online Wage Library which is a U.S. Department of Labor Wage Rate Determination Source that can be used to determine the Fair Market Prevailing Wage Rates for “Project OfficeRelated” or “Specialty” Training Program classifications on Federally funded projects:
 - a. <http://www.flcdatacenter.com/OesWizardStep2.aspx?stateName=Pennsylvania> 1) Select a Data Source? :

- a. [7/2015 – 6/2016 All Industries Database](#)
- 2) Then go to “Select an area based on County/Township”
 - b. Drop down and select the County where the project is located. (I.E. [Dauphin County](#))
- 3) Then go to: Select an occupation from the list:
 - c. Use the drop down to locate the O*Net Code you found (I.E.: [17-3022](#))

Below is an example of the Fair Market progressive prevailing wage rates that a Civil Engineer, or a Field Engineer Trainee would be eligible to receive based on their skill and/or educational level, for performing [Transportation Engineering Technician](#) duties on a project that is located in the HarrisburgCarlisle, PA Metropolitan Statistical Area (MSA):

Example: Online Wage Library - FLC Wage Search Results

Monday, August 10, 2015 [New Quick Search](#) [New Search Wizard](#)

You selected the All Industries database for 7/2015 - 6/2016. Your search returned the following:

Area Code:	25420
Area Title:	Harrisburg-Carlisle, PA MSA
GeoLevel:	1
OES/SOC Code:	17-3022
OES/SOC Title:	Civil Engineering Technicians
Level 1 Wage:	\$17.54 hour - \$36,483 year
Level 2 Wage:	\$21.15 hour - \$43,992 year
Level 3 Wage:	\$24.75 hour - \$51,480 year
Level 4 Wage:	\$28.36 hour - \$58,989 year
Mean Wage (H-2B):	\$24.76 hour - \$51,501 year

This wage applies to the following O*Net occupations:

17-3022.00 **Civil
Engineering Technicians**

The prevailing wage must be at, or above the federal or state or local minimum wage, whichever is

higher. The federal minimum wage is \$7.25/hr.
effective July 24, 2009.